

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: Donald E. Lippy and Kathleen F. Lippy

18-052-XA

DATE: April 11, 2018

BOARD/PANEL: Jason S. Garber, Panel Chairman
Deborah C. Dopkin
Kendra Randall Jolivet

RECORDED BY: Tammy A. Zahner, Legal Secretary

PURPOSE: To deliberate the Protestants' Motion to Dismiss the Petition for Special Exception for a solar facility for the property located at 15700 Hanover Pike, and Petitioners' Response thereto.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

DISCUSSION

- The Board discussed the Petitioners request for a solar facility, and noted this is the second case filed by Petitioners. This second and current case was filed after the enactment of County Council Bill 37-17 which governs solar facilities.
- The Board members reviewed the arguments presented by counsel, pleadings and applicable case law.
- The Protestants argue in their Motion to Dismiss that the case should be dismissed on the grounds of *res judicata*, and BCZR Section 500.12.
- The Board considered the Motion and found the argument to be unpersuasive. The doctrine of *res judicata* does not apply when there has been a change in the law, as there has been in this case.

CONCLUSION: After thorough review of the facts and law in the matter, the Board unanimously agreed to DENY the Motion to Dismiss, and set the case in for a hearing on the merits.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place on the above date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by the Board.

Respectfully Submitted,

/s/
Tammy A. Zahner